## UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

BRUCESTAN T. JORDAN	]	
Petitioner,	]	
	]	
<b>v.</b>	]	No. 3:10-0174
	]	Judge Echols
UNITED STATES OF AMERICA	]	
Respondent.	]	

## ORDER

The Court has before it a *pro se* prisoner petition (Docket Entry No. 1) under 28 U.S.C. § 2241, for writ of habeas corpus.

The petitioner is an inmate at the Federal Correctional Institution in Miami, Florida. He brings this action challenging his convictions for mail fraud and aggravated identity theft.<sup>1</sup>

Venue for a § 2241 petition is proper in the judicial district within whose territorial jurisdiction the petitioner's custodian can be found. <u>In re Gregory</u>, 181 F.3d 713 (6<sup>th</sup> Cir. 1999). In this case, the petitioner's custodian is the Warden of the Federal Correctional Institution in Miami. Venue for this action, therefore, is not proper in this judicial district.

Normally, a petition that has been filed in the wrong judicial district is transferred to the judicial district in which venue properly lies. In this case, however, the petitioner has neglected to name his custodian as a respondent to this action. Moreover, the petitioner is attempting to proceed under § 2241 when a challenge to a conviction should, except under the most exceptional

<sup>&</sup>lt;sup>1</sup> <u>United States of America v. Jordan</u>, No. 3:06-cr-00165-1 (M.D. Tenn.)(Trauger, J., presiding).

circumstances, be brought pursuant to 28 U.S.C. § 2255. 28 U.S.C. § 2255(e); <u>United States v. Peterman</u>, 249 F.3d 458, 461 (6<sup>th</sup> Cir. 2001). As a consequence, the petition appears to be fatally flawed and, as dictated by the need for judicial economy, should not simply be transferred to another district court. Accordingly, this action is hereby DISMISSED without prejudice for improper venue. 28 U.S.C. § 1406(a).

It is so ORDERED.

Robert L. Echols

United States District Judge

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